



# TAX FACTS

From the  
State of Hawaii, Department of Taxation

March, 1997

## INCOME TAX ISSUES FOR NONRESIDENT MEMBERS OF THE U.S. ARMED SERVICES

97-2

The members of the U.S. armed services in Hawaii and their dependents come from all over the U.S. and form a significant part of our population. Given the unique situations facing our servicemen and women, it is important that we provide timely income tax information to them. The following are some of the questions which are commonly asked by nonresident members of the U.S. armed services in Hawaii.

**1. I'll be stationed in Hawaii for the next few years. Does that make me a Hawaii resident?**

No. You are a nonresident of Hawaii for income tax purposes unless Hawaii is your home state of record. While serving on active duty in the military, you are a resident only of the state specified in your military records. Your home state of record is provided both on your pay stubs and on the Form W-2 you receive each January.

**2. Is my spouse (who is not in the military) considered a resident or nonresident of Hawaii?**

If your spouse came to Hawaii because you were assigned to a new duty station in Hawaii, and if your spouse intends to leave when you leave or are reassigned, then your spouse is a nonresident of Hawaii. Your spouse only will be considered a Hawaii resident if he or she is domiciled in Hawaii. To be domiciled in Hawaii, a person's true, fixed, permanent home and place to which the person intends to return whenever the person leaves must be Hawaii. However, also see question 3 below.

**3. I married a U.S. alien while stationed abroad, and my spouse was granted a "green card" while we were living in Hawaii. Is my spouse a resident of Hawaii or of the same state I am?**

An alien who is granted permanent resident alien status while in Hawaii is considered to be domiciled in Hawaii. Your spouse is a resident of Hawaii for income tax purposes.

**4. How do I change my domicile?**

To change your domicile, 3 conditions must all be met. First, you must show an intent to abandon your old domicile. Second, you must show an intent to acquire a specific new domicile. Third, you must have an actual physical presence in the new domicile.

All facts and circumstances are taken into consideration when determining if the conditions have all been met. A single act, such as getting an in-state driver's license, is insufficient. Additional information on changing your domicile may be found in Tax Information Release 90-3 and Tax Information Release 90-10. These publications may be obtained from any district tax office, or via the Department's Internet site at:

<http://www.hawaii.gov/tax/tax.html>

**5. Are my children considered Hawaii residents if they are born here?**

A child's residency status depends on the residency status of the parent or other person who can claim that child as a dependent, not on where the child is born. Your children are residents of the same state as the parent (either you or your spouse) who is eligible to claim them as dependents.

**6. Is it true that all of my income is exempt from Hawaii taxes?**

No. The federal Soldier's and Sailor's Civil Relief Act does exempt from state taxation the wages paid to you for serving on active duty, but only from taxation by a state other than your state of record.

If you are a nonresident of Hawaii, then your military pay is exempt from Hawaii taxation. However, any other income you earn in Hawaii, such as wages from a part-time job, will be taxed by Hawaii.

**7. If I have income other than my military pay, what tax form should I file?**

As a Hawaii nonresident, you should file Form N-15, the Hawaii nonresident individual income tax return.

NOTE: If you are married to a Hawaii resident and elect to file a joint Hawaii income tax return with your resident spouse, you must file a Hawaii resident return, Form N-11, Form N-12, or Form N-13, and report and pay tax on all of your income including your military pay.

**8. How can I get Form N-15?**

All Hawaii tax forms and instructions may be obtained from any district tax office, or by calling the department's forms request code-a-phone on Oahu at 808-587-7572, or toll-free from the mainland and neighbor islands at 1-800-222-7572. Most forms, including Form N-15, also can be downloaded and printed from the department's site on the Internet (see Question 4 for the address).

**9. When is the Form N-15 due?**

Form N-15 is due on April 20. If April 20 falls on a weekend or State of Hawaii holiday, the tax return is considered timely filed if filed on the first work day immediately following that weekend or State holiday.

The date filed is the date your tax return is received by the department, or, if mailed through the U.S. Postal Service, the date your return is postmarked.

**10. Will I be charged any penalty or interest if I file my income tax return late or do not pay any Hawaii income tax?**

If you file a Hawaii income tax return after the filing deadline, then a penalty of 5% per month, up to a maximum of 25% of the tax due, and interest on the tax and the penalty of 2/3 of 1% per month will be assessed.

If you file your return on time but do not pay your tax in-full, then you will be assessed a penalty of 20% of the tax owed after 60 days, plus interest on the tax and the penalty of 2/3 of 1% per month.

However, a waiver of both the penalty and interest may be granted IF your ability to pay your tax is materially impaired because of your military service. The waiver, if granted, will extend for a period extending not more than 6 months after you leave the service.

**11. If I file a joint federal income tax return, do I have to file a joint Hawaii income tax return too?**

No, Hawaii does not require you to use the same filing status you use on your federal return. Therefore, you and your spouse could file jointly on your federal return, and separately on your Hawaii return.

**12. My spouse (who is not in the military) and I both are nonresidents of Hawaii, but only my spouse has income taxed by Hawaii (I just have my military pay). Can we still file a joint income tax return for Hawaii?**

Yes. As long as both you and your spouse are nonresidents, a joint Form N-15 may be filed. Because your military pay is exempt as long as you file a nonresident return, you and your spouse will, in most cases, pay less tax if a joint return is filed.

**13. What is the main difference between filing as a Hawaii resident and filing as a nonresident?**

The main difference is that persons filing as a Hawaii resident are taxed on their income from worldwide sources, and persons filing as a nonresident are taxed on their income from Hawaii sources only.

**14. Are there any limitations to what a nonresident can deduct on the Form N-15?**

Nonresidents may claim the same standard deduction and personal exemption amounts as residents. However, adjustments to income and itemized deduction amounts may be limited to the extent that they are unrelated to income taxed by Hawaii.

**15. The front page of the Form N-15 has 2 columns that need to be filled in. Column A is for my total income and adjustments to income, and Column B is for my income and adjustments to income from Hawaii. If I only am taxed on my income from Hawaii (Column B), why is Column A necessary?**

Column A is needed to compute the ratio by which certain itemized deductions are limited.

**16. Are the tax rates the same for both Hawaii residents and Hawaii nonresidents?**

The tax rates are the same for both residents and nonresidents.

**17. May nonresidents claim the same tax credits as Hawaii residents can?**

No. Only a few, mostly business tax credits, also are available to nonresidents of Hawaii. Please see the N-15 instruction booklet for details.

**18. If I am deployed outside of Hawaii, can my spouse sign my Hawaii income tax return for me if my spouse is given a general power of attorney?**

No. Your spouse may not sign a tax return for you unless the power of attorney specifically includes the signing of Hawaii income tax returns. If you wish, you may use Hawaii Form N-848, Power of Attorney and Declaration of Representative, for this purpose.

**19. Where can I get help preparing my Form N-15?**

Contact your base legal office for information. Each year, the department provides training to military personnel on Oahu in the preparation of Form N-15 through the Volunteer Income Tax Assistance (VITA) Program. You also may call any district tax office with your questions, and to also find out about the tax preparation services available at that office.

**STATE DISTRICT TAX OFFICE ADDRESSES & TELEPHONE NUMBERS**

Oahu District Tax Office  
830 Punchbowl Street  
P. O. Box 3559  
Honolulu, HI 96811-3559

Maui District Tax Office  
54 South High Street  
P. O. Box 913  
Wailuku, HI 96793-0913

Hawaii District Tax Office  
75 Aupuni Street  
P. O. Box 1377  
Hilo, HI 96721-1377

Kauai District Tax Office  
3060 Eiwa Street  
P. O. Box 1688  
Lihue, HI 96766-5688

Telephone No.: 808-587-4242  
Jan.-April 20: 808-587-6515  
Toll-Free: 1-800-222-3229

Telephone No.: 808-984-8500

Telephone No.: 808-974-6321

Telephone No.: 808-274-3456